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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,664	03/08/2001	Ho Soo Lee	YOR920010159US2	4845

30743 7590 12/27/2007
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EXAMINER

BORLINGHAUS, JASON M

ART UNIT	PAPER NUMBER
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3693

MAIL DATE	DELIVERY MODE
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12/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/800,664

Applicant(s)

LEE ET AL.

Examiner

Jason M. Borlinghaus

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 3 - 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 18, 22 and 30 state "creating a graphical visual interface based on a coordinate system having a plurality of equidistant, parallel axes..." (emphasis added). Applicant's response to the 112, 2nd paragraph, rejection contained in the Office Action filed 7/12/2007 has created new 112, 2nd paragraph, rejection concerns pertaining to Claims 1, 18, 22 and 30.

Examiner elaborates upon his reasoning below in the section marked Response to Arguments.

Dependent claims are rejected based upon their dependency to the above rejected claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 and 3 – 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friesen (US Patent 6,993,504) in view of Disclosed Prior Art (applicant's specification, pp. 1 – 7 and fig. 1 – 2) and Jones (Jones, Everett Gerald. How to Lie with Charts.

Regarding Claims 1 and 3 - 18, Friesen discloses a method of purchasing products (semi-fungible and non-fungible goods) over a network comprising the steps of (see abstract):

- submitting a Request for Quotation (offer) with a plurality of attributes (quantity and value) over the network. (see col. 5, lines 50 – 57);
- receiving a plurality of bids, each of the plurality of bids having values (specified quantity and value) for each of said plurality of attributes. (see col. 5, lines 50 – 57);
- creating a graphical visual interface (single interface) based on a coordinate system having a plurality of equidistant, parallel axes (book

axes) with a separate one of the attributes (values and quantity) identified with each respective one of the plurality of equidistant, parallel axes (marks along the axis) and for each of said plurality of attributes there is a point (icon) which reflects a corresponding attribute value for a respective attribute of each corresponding one said plurality of bids. (see abstract; col. 6, line 60 – col. 7, line 25); and

- where each of said plurality of bids is identified by a bid line (value axis) which connects said plurality of corresponding attribute values (such as price) for each corresponding bid (marker). (see abstract; col. 6, line 60 – col. 7, line 25);
- whereby the graphical user interface (single interface) shows a relationship in a graphical format between attribute values of different attributes (such as price and quantity) of different bids of said plurality of bids in a single display (see abstract; col. 6, line 60 – col. 7, line 25); and
- displaying information pertinent to a selected bid of the plurality of bids. (see abstract; col. 6, line 60 – col. 7, line 25);
- wherein the information is one of a general information (visual representation by placement and icon size) and detailed information (precise value and quantity of order) related to the at least one bid of said plurality of bids. (see abstract; col. 6, line 60 – col. 7, line 25);

- selecting a portion of a bid line (book axis) and retrieving the general or detailed information from a database, the general or detailed information being pertinent to the bid line. (see col. 3, lines 9 – 15);
- wherein the retrieved general information is provided in a window adjacent the bid line (such as a pop-up window). (see col. 7, lines 16 – 20);
- further comprising the steps of creating a display (pop-up window) separate from the graphical visual interface and displaying the detailed information in the separate display. (see col. 7, lines 16 – 20);
- wherein the detailed information is rendered in one of text, image, audio, sound, video, graphs and animation. (see abstract; col. 6, line 60 – col. 7, line 25);
- wherein the information is attribute information (value) associated with one bid line (value axis). (see abstract; col. 6, line 60 – col. 7, line 25);
- further comprising the steps of tagging (highlighting) at least one bid line (book axis) and displaying the tagged (highlighted) at least one bid line (book axis) on the graphical user interface after a selected filtering operation. (see col. 23, lines 40 – 60);
- wherein the graphical information displayed on the graphical visual interface includes at least one attribute value associated with the tagged at least one bid line. (see col. 23, lines 40 - 60);
- further comprising the steps of untagging (non-highlighting) the at least one bid line (book axis) and removing the untagged (non-highlighted) from

the graphical user interface in response to the selected filtering operation.

(see col. 23, lines 40 – 60);

- further comprising the step of displaying a count of bid lines (book axes) associated with the at least one bid (bid or offer icon), the count being displayed on the graphical visual interface. (see col. 2, line 51 – col. 3, line 15);
- further comprising the steps of continuously counting (updating) the number of bid lines and displaying the counted number of bid lines in the graphical visual interface. (see col. 6, lines 36 – 60);
- further comprising the steps of enlarging or reducing a portion of the graphical visual interface. (creating an enlarged book axes illustrating more detail – see col. 2, line 51 – col. 3, line 15);
- wherein the enlarging or reducing steps show portions of bid lines (bid axes). (see col. 2, line 51 – col. 3, line 15); and
- further comprising the step of scrolling the graphical visual interface in a desired direction (through the use of a horizontal and/or vertical scroll bar). (see col. 15, lines 13 – 43).

Friesen does not teach that the method is utilized for purchasing services.

Disclosed Prior Art discloses a method of purchasing products and services over a network (Word Wide Web portion of the Internet). (see p. 2, lines 5 – 6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Friesen by incorporating the purchasing of

services, as disclosed by Disclosed Prior Art, to allow for services, in addition to goods, to be analyzed by the graphic user interface, as disclosed by Friesen, allowing better monitoring and analysis of market participants and activities.

Regarding Claims 19 - 30, such claims recite similar limitations as claimed in previously rejected claims, would have been obvious based upon previously rejected claims, or are otherwise disclosed by the prior art applied in previously rejected claims. Such claim limitations are therefore rejected using the same art and rationale as previously utilized. Applicant is reminded that any argument contrary to such an interpretation is an indication of patentably distinct subject matter that may warrant a restriction requirement.

Response to Arguments

112, 2nd Paragraph, Rejection

In the previous Office Action filed on 6/29/07, the Examiner asserted a 112, 2nd paragraph, rejection of Claims 1 and 3—0 concerning claim limitations that followed the claim language of "a graphical user interface based on a coordinate system". Examiner was uncertain whether the claim limitations were further defining the graphic user interface or the coordinate system.

Applicant asserts that based upon proper English that such claim limitations further define the coordinate system and not the graphical user interface. (see Arguments, pp. 10 – 11).

This creates a problem. The claim language states "a graphical user interface based on a coordinate system". "[A] graphical user interface based on a coordinate system" is a much broader term than "a graphical user interface consisting of a coordinate system" or "a graphical user interface comprising a coordinate system". "Based on" implies some connection between the coordinate system and the graphical user interface but does not define the metes and bounds of that connection. As other claim limitations further define the coordinate system rather than the graphical user interface their connection to the graphic user interface become increasingly more nebulous.

As an example, a film may be based upon a book and a person may further define the attributes of the book (e.g. plotlines, settings, characters). But just because the book contains particular attributes does not necessarily mean that all its attributes will be transferred to the film.

Prior Art

Applicant asserts that the instant invention can be differentiated from the cited prior art, Friesen, on the basis of the fact that "goods of the present invention are bids responsive to an RFQ" (see Arguments, p. 12).

Examiner is unsure how this differentiates the instant invention from Friesen. Friesen discloses a graphic user interface that displays information pertaining to goods. (see abstract). The graphic user interface displays information pertaining to RFQs (offers) and bids (bids) in response to said RFQs. (see col. 2, line 50 – col. 3, line 15).

Furthermore, Disclosed Prior Art discloses that is old and well known in the art of auctions to receive bids in response to a RFQ (Request for Bids) and it would have been obvious to one of ordinary skill in the art to have modified Friesen, even if Friesen did not independently disclose such RFQs, as RFQs is a conventional and traditional methodology by which one solicits bids. (see p. 2, lines 20 - 21).

Applicant also argues at length that Friesen pertains to semi-fungible goods. Examiner is unsure of the nature of the Applicant's argument because (1) semi-fungible goods possess a plurality of attributes (e.g. value attribute, quantity attribute, identification attribute) and (2) Friesen also discloses graphic displays involving non-fungible goods. (see abstract).

Applicant also asserts that the instant invention "is responsive to a completely different set of problems in the prior art." (see Arguments, pp. 12 - 13). Applicant also asserts that in Friesen "products are not being compared for valuation purposes." (see Arguments, p. 13). However, the Applicant's contention that different benefits can be derived from the instant invention and that the instant invention has a different intended use does not negate the fact that prior art discloses the claim limitations.

Applicant argues that Friesen does not disclose a "display for comparing multiple attributes of bids responsive to a single RFQ." (see Arguments, p. 13). Friesen states:

FIG. 4 illustrates an alternate view of the user interface in accordance with the present invention. The value/quantity view 420 illustrates the market for the item using a first axis of values 408 and a second axis 412 for quantity. Thus, the location of each offer icon 400 and each bid icon 404 represents the value for the offer or bid and the quantity for which the offer or bid is made. (see col. 11, lines 6 - 12).

Examiner asserts that Friesen discloses a display (user interface) comparing multiple attributes (value and quantity) responsive to a RFQ. Perhaps Applicant is asserting an argument that Friesen fails to explicitly disclose that all bids are generated by a single RFQ.

In response to such an argument, Examiner must state that the Courts have determined that it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184 (CCPA 1963). Therefore, reduction of multiple RFQs to a single RFQ does not differentiate the instant invention from Friesen.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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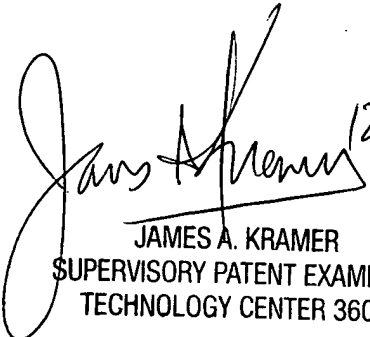
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Borlinghaus whose telephone number is (571) 272-6924. The examiner can normally be reached on 8:30am-5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason Borlinghaus (JMB)

December 20, 2007

 12.20.07
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